

2016 LEGAL ASSISTANT CONFERENCE

April 29, 2016
Prescott Resort & Conference Center
Prescott, Arizona



SEX TRAFFICKING

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Distributed By:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL

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Sex Trafficking: A Human Issue

Presented by: Joshua Kolsrud, Assistant United States Attorney

Agenda

- Defining Human Sex Trafficking
- Identifying victims
- Prosecuting cases

What is Human Trafficking?

- A form of modern-day slavery
- Exploitation of men, women and children for commercial sex or labor purpose
- The second largest and fastest growing criminal industry in the world.

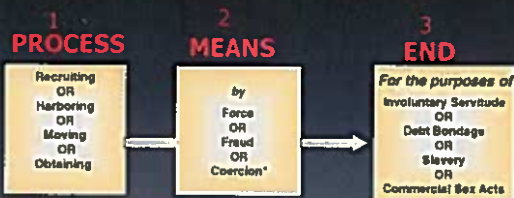


What is Sex Trafficking?

Sex trafficking occurs when a person is induced by **force, fraud, or coercion** to engage in a commercial sex act.

If the person induced to perform a commercial sex act is under 18, these elements are not necessary¹

Elements of human trafficking



*If not involved in commercial sex, do not need to prove force, fraud, or coercion

Definitions

Commercial sex act means any sex act on account of which anything of value is given to or received by any person.

- Prostitution
- Erotic/nude massage
- Exotic dancing
- Pornography
- Online issues
- Escort services
- Phone sex lines

Common Myths

Victims know what they are getting into

The victim is a criminal

The victim was paid for her services

The youth is free to leave

Common Myths

U.S. citizens cannot be trafficked

It's not trafficking when the trafficker and the victim are related

It's not trafficking unless the victims are moved across borders

Victims trafficked within a state don't qualify for federal victim assistance

1) For a complete definition of trafficking, see the Department of Homeland Security's Trafficking Victims Protection Act (TVPA) (1/11)

2) Human Trafficking is the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act (1/11)

3) There are multiple forms of human trafficking, and it can occur both domestically and internationally (1/11)

4) Trafficked persons can include both men and women (1/11)

5) Human trafficking and "sex trafficking" are not the same thing (1/11)

6) Sex trafficking is a form of "forced labor" (1/11)

7) The terms "prostitution" and "sex trafficking" are not the same thing (1/11)

8) The act of being trafficked is not the same as being a victim of trafficking (1/11)

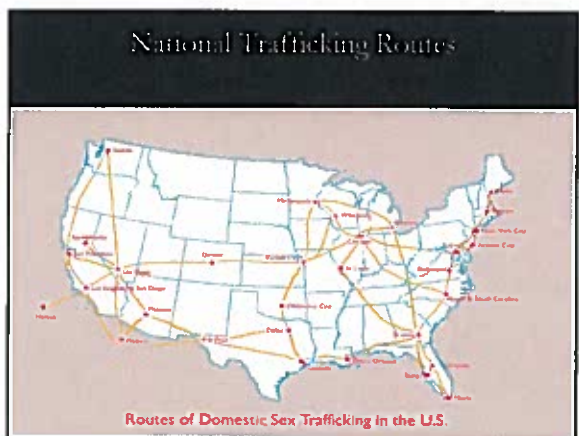
9) There is no estimate of how many humans living in the United States are trafficked (1/11)

10) There are no laws for prostitution (1/11)

Common Terminology

- Pimp
- Mamasang
- Boyfriend / Daddy
- John
- Tricks
- Stable
- Track
- Bottom bitch
- The Life
- Squaring Up
- Turn Out
- Bodyguard / Looker





WHY IS THERE A DEMAND?

Who are the consumers or "Johns"?

- Buyers can be all ages, ethnicities and represent a variety of social and economic backgrounds
- Buyers are equally responsible for the crime of sex trafficking



Who are the victims?



Trafficked persons are:

Female Labor Trafficked Adults
Youth/minors US Citizens
Foreign nationals Transgender
Reduction Male



Who are the victims?

"BABIES" – The average age of a girl's entry into prostitution/sex trafficking is 12 to 14 years old.

RUNAWAYS – 30% shelter youth & 70% street youth engaged in prostitution.

PRIOR ABUSE – 85% of women exploited through prostitution reported a history of sexual abuse in childhood, 70% reported incest.

GANGS – after drug dealing, human trafficking is tied with the illegal arms trade as the second largest criminal industry in the world and the fastest growing.

1. Richard J. Latta and Neil Alan Warner, "Commercial Sex as Exploitation of Children in the U.S.: Canada's Role in Trafficking," *Pennsylvania: Election Summary*, 2001.
2. *Denver Daily Post*, "Prostitution Report," 12/2/2000.

Industries

1. Pimp-controlled prostitution (hotels/motels, streets, etc)
2. Commercial-front brothels
3. Escort service/Delivery services

*The vast majority of victims are women.

Scope of Human Trafficking Problem

- 12.3 Million adults and children in forced labor, bonded labor, and commercial sexual servitude
- 1.39 Million are victims of commercial sexual servitude

U.N. International Labor Organization

Identifying Victims

- Runaways/Homeless
- Traveling / Transportation
- Delinquency
- Relationships
- Tattooing
- Material items
- Drug/Alcohol Abuse
- On probation



Runaways

Most common reasons for leaving home:

1. Sexual abuse
2. Physical abuse
3. Neglect (hoarder homes)
4. Parents on drugs
5. Parents have thrown child out of the home
6. Domestic violence

Common red flags

Environmental/ Situational

Suspicious employment situation
Dependence on "friend" or co-worker to answer questions
Abusive relationships

Verbal/Emotional/ Psychological

Providing health provider with contradictory information
Suicidal, depression, fearfulness, anxiety, trauma symptoms

Physical

Untreated injuries, explanations inconsistent with injuries
Multiple STIs or abortions
Evidence of sexual abuse

Survivors' trauma and situation impacts identification

Fears consequences of identifying as victim:
 Retaliation by trafficker + especially, consequences if gets made report
 Family members or loved ones
 Deportation (foreign national)

- In crisis mode
- Trouble recounting history/details
- May not self-identify as victim
- Loyalty to trafficker(s)
- Cultural/language barriers
- Mistrust
- Limited understanding of rights

The trafficking formula: How people become victims of sex trafficking

1. Pathways to Entry and Recruitment
2. Maintaining status quo

Pathways to Entry and Recruitment

- Seduction and coercion
- Violence or force
- False advertising for modeling, acting, or dancing
- Peer recruitment
- Internet luring through chat rooms or profile sharing sites
- Parents selling children

Pimp culture

Where pimps recruit

Tactics to gain a victim's trust

➤ Recruiting

Pimp/victim relationship

➤ Breaking

➤ Maintenance

High-tech Sex Trafficking: Sextortion

Basically: High school girl meets cute high school boy who seems to like her. He tapes their sexual encounter and/or lures her into a gang-rape type situation (also taped) or collects her nude selfies and threatens to expose her "slutty" ways unless she does what he wants.

→ The Amanda Todd story.

Identifying Victims: Where do we look?

- Police reports
 - Habitual runways
 - Indications of commercial sex
- Probation and Parole
 - Criminal histories for assaultive or disorderly behavior
 - Clients identified by probation
- Schools Administration / SROs
 - Absentee records
 - Sudden drop in grades
- Mental Health Services

Prosecution

VICTIM ISSUES

TRIAL ISSUES

Victim Services

1. Holistic
2. Victim Centered

Holistic Approach

Immediate & Comprehensive assistance

Housing, food, medical, safety assessments, language interpretation and legal services

Ongoing Case Management and Support

Intensive and wrap-around services

Mental Health

Trauma-informed counseling

Victim Advocacy

Legal services: Visa/immigration, restitution

Victim Services

Get victim services involved immediately

Victim services should have contacts with CPS, local shelters, NGOs

Can assist in providing food, clothes, basics if victim cannot return home.

Victim-Centered Approach

Basic	Legal	Emotional & Social	Safety & Security
<ul style="list-style-type: none"> • Clothing and food • Transportation • Education • Employment • Medical Care • Testing for STD's 	<ul style="list-style-type: none"> • Child custody issues • Prosecution of trafficker • Prosecution charges, or other charges 	<ul style="list-style-type: none"> • Crisis intervention • Case management • Social service advocacy • Mental health care • Life skills and training • School enrollment 	<ul style="list-style-type: none"> • Safe space • Safety planning • Emergency & transitional shelter • Protective Orders from traffickers

Time is the enemy

Time is the greatest enemy with victims in these cases.

Victims will either end up back prostituting OR

Will have moved on and do not want to testify

Lessons learned with victims

- Spend time with them
- Listen to what they aren't saying as opposed to what they are
- Keep in constant contact with them through process
- Keep them a part of the process
- Monitor jail calls and Facebook postings of victim
- Discuss defense investigators
- Assess what the issue is with the victim and try to address it.
 - Fear of defendant
 - Fear of testifying
 - Fear of getting defendant in trouble
 - Want to be punished or believe they should be punished

Lessons learned with victims

Victim Issues to be Aware Of:

- Uncooperative (want this to go away) (leave me alone)
 - Services, Subpoena, Lawyer, Facebook, Warrant
- Justice has a very high cost & More pain before resolution
- Deep emotional scars/shame/embarassment/suicide
- Still have feelings, loyalty to gang and pimp
- Maturity (lack of and too much)
- Complete lack of trust
- Physical and Mental injuries/Pregnancy

Lessons learned with victims

How to Get Through & Build Trust:

- Multiple Interviews (built up to tough questions)
- Meet where they are comfortable
- Don't disappear between interviews
- Involvement of NGO's – temporary housing, food
 - Beware, NGO has a different priority
- Brutal honesty (been lied to by everyone)
- Make criminal process a series of small goals
 - Chat, Interview, Prelim, Direct, Cross, Sentencing

Prosecutor's Role

Lack of Education:

Generally: Prosecutors are not familiar with the street and do not understand the dynamics of sexual exploitation

An Uneducated Prosecutor

- Can not identify an HT case
- Will lose evidence and victim cooperation through mismanagement
- Can not sell a case with a high risk victim
- Juries will not convict

ISSUES

- Rule #1:
- You **NEED** the victim.
- The victim **DOES NOT NEED YOU**. The case is probably one of the worst best things that ever happened to her.
- **UNLESS YOU GET THE VICTIM invested**, the case will have problems.

ISSUES

- Rule #2:
- Victims may be scared/intimidated by lawyers and the criminal justice system.
- DO NOT MAKE IT WORSE by being disorganized, unfocused or judgmental.

An Understanding of Adolescent Victims:

- Rational v. Emotional
- Compliant victim dynamics

To Work These Cases:

- Prosecutors must:
 - Educate yourself
 - Develop an understanding of victim dynamics
 - Develop an understanding of pimp behavior
 - Develop an understanding of the crime of human trafficking

Victim Interview:

- EXPLAIN ROLES
 - Prosecutor, investigator
- EXPLAIN CRIMINAL PROCESS
 - Interview through sentencing
- EXPLAIN EXPECTATIONS
 - Honesty from the victim
- No judgment from the prosecutor/ investigator

Preparing the Victim for Court:

- THERE IS NO RIGHT WAY TO GET OUT THE STORY...sometimes.
 - Chronologically
 - Beginning at the actual assault
 - Jumping around
 - Only hitting portions

Preparing Victim for Court:

- HOW IT IS BEING SAID IS AS IMPORTANT AS WHAT IS BEING SAID
 - There is no right way for a victim to react or relate the assault.
 - The issue is how will the victim's way play to a jury

Preparing Victim for Court:

- CONFIRM:
 - Dates
 - Locations
 - Number of acts
 - Type of acts
 - Witnesses
- DO ANY SPECIAL ALLEGATIONS APPLY?

Preparing Victims for Court:

- CONFRONT UNCOMFORTABLE ISSUES
 - Drugs
 - Alcohol
 - Prior consent
 - "Bad" behavior
 - Inconsistencies
- BE CAREFUL: DO NOT CREATE ISSUES!

Practical Tips for Preparing Victims for Court

- Minimize the number of people in contact with the victim: lead investigator and prosecutor.
- Contact with your victim should be as casual as you can make it
- Assess whether there are any evidentiary rules that may allow you to NOT call the victim at initial hearings.

Pre Trial Motions

- Immunity



Pre-Trial Motions: Immunity



- You need to pull prior cases/contacts with victim to make sure they are someone to whom a grant of immunity is reasonable...

Pre-Trial Motions: Immunity

- To a prosecutor, it may be an unfamiliar process and make you feel like there is something to hide or be ashamed of in the case.
- To a victim, it makes them feel like they have done something wrong and are not a victim but a suspect

Pre-Trial Motions

- Adolescent Victim:

- SEAL COURTROOM

- CCTV



Pre-Trial Motions

- Motions in Limine

- Subject Matter Experts



Pre-Trial Motions

- Reverse Rape Shield?

VOIR DIRE

- Most important part of any trial
- Must begin preparing *voir dire* at beginning of case
- Consider filing list of questions for jury
- Consider hiring jury consultant expert

Voir Dire REQUIREMENTS:

- MUST WEED OUT JUROR BIAS!
- BEGIN IMPLEMENTING YOUR THEME!
- CONFRONT CASE WEAKNESSES NOW!
- Use hypotheticals/examples. Know your judge.

VOIR DIRE

- Who is on trial here? Understand D on trial?
- All the evidence will be directed at what D did and did not do?
- Want jurors who will follow the law despite emotional bias.

VOIR DIRE

- ID jurors who are former victims or know victims of sex trafficking or sex abuse
- Who is on trial here? Understand D on trial?
- All the evidence will be directed at what D did and did not do?

VOIR DIRE

- Understand police not on trial, V and wits not on trial, I am not on trial, you are not on trial.
- Knowing what you do about yourself able to stay focused on D and what he did or did not do?
- Even if do not like police? Me? Victim?

VOIR DIRE

- Who is on trial here? Understand D on trial?
- All the evidence will be directed at what D did and did not do?
- Understand we would not be here today but for the allegations/evidence against the defendant.

"The defendant drove the bus"

VOIR DIRE

- Understand the legality and morality of prostitution is not on trial?
- May all have different ideas about whether or not prostitution should be legal. Not the issue here.
- Pimping and pandering are the charges. Knowing What you do about yourself, stay focused on the charges not the moral debate?

VOIR DIRE

- Anyone think that sometimes victims deserve what happened to them because they made bad choices or put themselves in a vulnerable position?

VOIR DIRE

- Pretend car theft trial:
- Victim drives up to a video store, hops out of car to return a video – leaves keys in ignition just for a second, only few feet away.
- Thief standing out front hops into car and drives away
- Crime committed?

VOIR DIRE

- V contributed to that crime? How?
- V comes into testify at trial, treat testimony different because what they did
- Believe more or less?
- If believed victim, able to find D guilty?

VOIR DIRE

- Knowing what you do about yourself, can you follow the law even if you do not approve of the victim's lifestyle and choices?
- Even if you would have made different choices?

VOIR DIRE

- During course of trial will hear two sides.
- That is what a trial is about
- Fact that there are two sides means that there is automatically reasonable doubt?
- Understand that that is the nature of a trial?

VOIR DIRE

- Understand your job is to resolve those conflicts? Accept that?
- Means will have to make a credibility call? Decide who you believe?
- Knowing what you do about yourself, can you do that?

Opening Statements

- Theme
- Point of View
- Tell a Story
- Less is More



Direct Exam of Victim:

Demonstrate Victim's Vulnerability

- Family Structure
- Prior Abuse
- Homeless
- Hungry
- Survival



Direct Exam of Victim:


How Did Pimp Lure Victim into "the game"

- Mentoring
- Words/Actions
- Gifts
- "Love"

Direct Exam of Victim:

Pimp Controlling the Victim through Force/Coercion/Fear

- "If you love me..."
- Threats
- Assault
- Access to Food
- Isolation



Direct Exam of Victim

Lay foundation for corroborative evidence

- Absence school/work
- Medical evidence
- Locations/Crime Scenes

Types of Evidence?

- Hotel Bills
- Hotel Rewards
- Photographs
- Gas Station Receipts
- Medical Records
- Pimp/Victim
- Defendant's Lifestyle

High Tech Evidence

- Internet
 - Social networking sites
 - Email
 - Cloud computing
 - MapQuest
 - Google searches

High Tech Evidence

- Cell Phones
 - text messaging
 - phone calls
 - Cell phone pings
- Videotape
 - surveillance cameras

Subject Matter Experts

- Gang or "vice" detectives:
- Cultural or Country experts:
- NGO's:
 - HT victims, Rape Crisis, CSAAS

Expert Witness Practical Tips:

- Juries expect a little drama in the courtroom
- Visual learners
- First Witness in HT CASE:
Educational: Subject Matter Expert
- Set up your victim for a homerun!

Presenting "Vice" Detective:

- Rules/regulations
- What are some of the rules:
- Walking direction
- No getting into a car on the track

Presenting "Vice" Detective:

- How rules enforced? violence/manipulation
- How do you get into it? how get a pimp
- Pimp/victim work - S. responsibilities
- Free lancing /renegading? - Why not?

Cross of Defendant:

- Areas we agree
- Areas we don't agree
- Confront with evidence



Examples:

- Areas where defendant will not run
- Priors?
- Get defendant to admit trafficking is wrong and horrible
- Corroborated Facts: Either Admit or Prove Lie
- Take glamour away from lifestyle

Closing Arguments

- Continue use of theme
- Confront victim blaming
- "where...already a prostitute" blame on victim

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